

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

ROBERT SMITH Jr.,
Plaintiff,
v.
SGT. R. ROBERTS *et al.*,
Defendants.

Case No. C06-5635RJB
ORDER DENYING COUNSEL

This civil rights action has been referred to the undersigned Magistrate Judge pursuant to Title 28 U.S.C. § 636(b)(1)(B). Plaintiff was given leave to proceed *in forma pauperis*. Plaintiff has moved for appointment of counsel (Dkt. # 6).

In considering plaintiff's motion for counsel the court notes there is a standard for appointment of counsel in the Ninth Circuit. There is no right to have counsel appointed in cases brought under 42 U.S.C. § 1983. Although the court, under 28 U.S.C. § 1915(d), can request counsel to represent a party proceeding *in forma pauperis*, the court may do so only in exceptional circumstances. Wilborn v. Escalderon, 789 F.2d 1328, 1331 (9th Cir. 1986); Franklin v. Murphy, 745 F.2d 1221, 1236 (9th Cir. 1984); Aldabe v. Aldabe, 616 F.2d 1089 (9th Cir. 1980). A finding of
ORDER

1 exceptional circumstances requires an evaluation of both the likelihood of success on the merits and
2 the ability of the plaintiff to articulate his claims *pro se* in light of the complexity of the legal issues
3 involved. Wilborn, 789 F.2d at 1331.

4 Plaintiff has made no showing of likelihood of success on the merits. He has asked for
5 permission to file an amended or supplemental complaint (Dkt. # 3 and 7). The motions to amend
6 will be addressed in a separate order. Plaintiff's Motion to Appoint Counsel, (Dkt. # 6), is **DENIED**.

7 The Clerk is directed to send plaintiff a copy of this Order.

8
9 DATED this 24 day of January, 2007.

10
11 /S/ J. Kelley Arnold
12 J. Kelley Arnold
13 United States Magistrate Judge
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

ORDER